

EMPLOYER'S BEWARE - Individual Taxpayer Identification Numbers Are NOT Proof Of Immigration Status Or An Acceptable Form Of Identification.

In May 2007 Public Chapter 220 was signed into law by Governor Bredeson. The crux of this new law, codified at T.C.A. § 50-1-106, is set forth in paragraph (b) which states:

(b) For purposes of an application or offer of employment, no person in this state shall accept an individual taxpayer identification number as a form of identification. Any person, including any contractor, in this state who is presented with an individual taxpayer identification number by a potential employee or subcontractor as a form of identification or to prove immigration status shall reject such number and shall request the lawful resident verification information that the person is required to obtain pursuant to federal law.

The IRS assigns individual taxpayer identification numbers (ITINs) to facilitate in federal tax reporting for workers who were unable to obtain a federal social security number. ITINs were first introduced in 1996 to encourage noncitizens with United States income, including foreign investors, to file returns. It is generally accepted that most of the 11 million numbers issued since then have gone to illegal immigrants according to an April 16, 2007 edition of the *The New York Times*. The IRS does not inquire into the immigration status of the taxpayer and, except in very limited exceptions, is barred from divulging taxpayer information to other governmental agencies.

ITINs are similar in format and length to social security numbers. Both social security numbers and ITINs are nine digits in length and both are in the format XXX-XX-XXXX. An ITIN can be distinguished from a social security number because the first number in an ITIN, always begins with a 9 and the fourth digit is always either a 7 or 8, such as 912-73-4567. Since many immigration bills proposed in Congress link amnesty to the payment of taxes, many illegal immigrants are obtaining ITINs and filing a return in hopes that doing so will create a paper trail that could lead to citizenship one day.

Under Tennessee's new law, if a potential employee or subcontractor presents an ITIN as a form of identification or to prove immigration status the employer or contractor must reject it and request documentation that is required by federal law when completing federal form "I-9".